

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

IN RE MUTUAL FUNDS	)	MDL 1586
INVESTMENT LITIGATION	)	
	)	
This Document Relates To:	)	Case No. 04-MD-15863-04
<i>MFS Sub-Track,</i>	)	(J. Frederick Motz, Judge)
04-md-15863-04	)	
	)	

**[PROPOSED] PRELIMINARY ORDER FOR NOTICE AND HEARING**  
**IN CONNECTION WITH SETTLEMENT PROCEEDINGS**  
**IN THE MFS SUB-TRACK**

J. FREDERICK MOTZ, District Judge

WHEREAS:

A. Investor Class Lead Plaintiff in the Class Action, the City of Chicago Deferred Compensation Plan (the “Investor Class Lead Plaintiff”); Derivative Lead Plaintiffs in the Derivative Action, Diane Hutto, Tina Casey, John Hammerslough, Pamela Yameen, Harry Jacobs, John E. Morrissey, Zachary Alan Starr, David Shaev, Katherine Clark, Joseph Cordani, Tina Gobillat, Simon Denenberg, Boris Fieldman, Mark Schwartz, Dina Rozenbaum, Jean Stigas, Lawrence A. Stigas, Edward Casey and Gustavo Bruckner (the “Derivative Plaintiffs”); ERISA Lead Plaintiff in the ERISA Action, Anita Walker (the “ERISA Lead Plaintiff”); and Massachusetts Financial Services Company (“MFS”), MFS Fund Distributors, Inc., MFS Service Center, Inc., Sun Life Financial, Inc., Sun Life Assurance Company – U.S. Operations Holdings, Inc., Sun Life Financial (U.S.) Investments LLC, Sun Life of Canada (U.S. Financial Holdings, Inc.), Sun Life Financial (US) Holdings, Inc., John Ballen, Kevin Parke, Jeffrey Shames, Eric Burns and Joseph Dello Russo (collectively, the “MFS Defendants”) have entered into a Stipulation and Agreement of Settlement (MFS Defendants) dated March 3, 2010

(the “MFS Defendants Stipulation”) providing for the settlement of claims against MFS Defendants and related entities and individuals (the “MFS Defendants Settlement”);

B. Investor Class Lead Plaintiff; Derivative Plaintiffs; ERISA Lead Plaintiff; and the MFS Funds, MFS Funds Trusts, MFS Funds Trustees, and the MFS Funds Individual Defendants (collectively, the “MFS Funds Defendants”) have entered into a Stipulation and Agreement of Settlement (MFS Funds Defendants) dated March 3, 2010 (the “MFS Funds Stipulation”) providing for the settlement of claims against the MFS Funds Defendants and related entities and individuals (the “MFS Funds Settlement”);

C. Investor Class Lead Plaintiff; Derivative Plaintiffs; and Banc of America Securities LLC (“BAS”) have entered into an MFS/BAS Severed Agreement and Stipulation of Settlement dated January 28, 2010 (the “MFS/BAS Stipulation”) providing for the settlement of claims against BAS and related entities and individuals (the “MFS/BAS Settlement”);

D. Investor Class Lead Plaintiff and Bear, Stearns & Co. Inc., Bear, Stearns Securities Corp. and The Bear Stearns Companies Inc., currently known as J.P. Morgan Securities Inc., J.P. Morgan Clearing Corp. and The Bear Stearns Companies LLC, respectively (collectively, the “Bear Stearns Defendants”) have entered into an MFS/Bear Stearns Severed Agreement and Stipulation of Settlement dated January 19, 2010 (the “MFS/Bear Stearns Stipulation”) providing for the settlement of claims against the Bear Stearns Defendants and related entities and individuals (the “MFS/Bear Stearns Settlement”);

E. Investor Class Lead Plaintiff; Derivative Plaintiffs; and Canary Capital Partners, LLC, Canary Capital Partners, Ltd., Canary Investment Management, LLC, and

Edward Stern (the “Canary Defendants”) have entered into an MFS/Canary Severed Agreement and Stipulation of Settlement dated January 19, 2010 (the “MFS/Canary Stipulation”) providing for the settlement of claims against the Canary Defendants and related entities and individuals (the “MFS/Canary Settlement”);

F. Investor Class Lead Plaintiff and Daniel G. Calugar, Security Brokerage, Inc. (now known as Symphonic Alpha, LLC), DCIP, L.P., RCIP, L.P., the Security Brokerage, Inc. Profit Sharing Trust (now known as the Calugar Corporation Profit Sharing Trust) (collectively, with any successors, the “Security Brokerage Parties”) have entered into an MFS/Security Brokerage Severed Agreement and Stipulation of Settlement dated January 15, 2010 (the “MFS/Security Brokerage Stipulation”) providing for the settlement of claims against the Security Brokerage Defendants and related entities and individuals (the “MFS/Security Brokerage Settlement”);

G. Investor Class Lead Plaintiff and Defendant Trout Trading Management Company Ltd., now know as Tewksbury Capital Management Ltd. (“Tewksbury”) have entered into a Stipulation and Agreement of Settlement with Tewksbury dated January 27, 2010 (the “MFS/Tewksbury Stipulation”) providing for the settlement of claims against Tewksbury and related entities and individuals (the “MFS/Tewksbury Settlement”);

H. Investor Class Lead Plaintiff and Defendant Wilshire Associates Incorporated (“Wilshire Associates”) have entered into a Stipulation and Agreement of Settlement with Wilshire Associates dated January 15, 2010 (the “MFS/Wilshire Associates Stipulation”) providing for the settlement of claims against Wilshire



Associates and related entities and individuals (the “MFS/Wilshire Associates Settlement”);

I. The MFS Defendants Stipulation, the MFS Funds Stipulation, the MFS/BAS Stipulation, the MFS/Bear Stearns Stipulation, the MFS/Canary Stipulation, the MFS/Security Brokerage Stipulation, the MFS/Tewksbury Stipulation, and the MFS/Wilshire Associates Stipulation shall be known collectively as the “Stipulations” and the settlements set forth in the Stipulations shall be known collectively as the “Settlements.” Investor Class Lead Plaintiff, Derivative Plaintiffs, and the ERISA Lead Plaintiff shall be known collectively as “Plaintiffs”; the MFS Defendants, the MFS Funds Defendants, BAS, the Bear Stearns Defendants, the Canary Defendants, the Security Brokerage Defendants, Tewksbury, and Wilshire Associates shall be known collectively as the “Settling Defendants”; and Plaintiffs and the Settling Defendants shall be known together as the “Settling Parties”;

J. Plaintiffs have moved, pursuant to Rule 23(e) and Rule 23.1(c) of the Federal Rules of Civil Procedure, for an Order preliminarily approving the Settlements, and providing notice of the proposed Settlements; and

K. The Court having read and considered the Stipulations; the proposed Notice of Proposed Settlements (the “Notice”), the proposed Long-Form Notice of Proposed Settlements (the “Long-Form Notice”), and the proposed Publication Notice of Proposed Settlements (the “Summary Notice” or “Publication Notice”), the proposed Plan of Allocation set forth in the Long-Form Notice, and the proposed forms of Order and Final Judgment, and finding that substantial and sufficient grounds exist for entering this Order;

**IT IS HEREBY ORDERED:**

1. For purposes of this Order, unless otherwise defined herein, the Court adopts all defined terms as set forth in the Stipulations.

**JURISDICTION**

2. This Court has jurisdiction over the subject matter of the Actions and over all parties to the Actions, including all members of the Investor Class and ERISA Class, as defined below.

**NO DETERMINATION OF WRONGDOING**

3. This Court hereby decrees that none of the Stipulations, nor this Order, nor the fact of the Settlements, are an admission or concession by any of the Settling Defendants, or any of their related entities and individuals as set forth in the respective Stipulations, of any liability or wrongdoing whatsoever or that Plaintiffs, the MFS Funds or any member of the Investor Class or ERISA Class suffered any damages as a result of the conduct alleged in the Actions.

**CERTIFICATION OF THE CLASSES**

4. For settlement purposes only, the Settling Parties have proposed conditional certification of the following Investor Class under Fed. R. Civ. P. 23(a) and (b)(3):

every natural person or any legal entity (including, without limitation, individuals, corporations, employee pension or other benefit or ERISA plans, and trusts) ("Person") who, during the period between and including July 31, 1999 and December 8, 2003 (the "Class Period"), purchased, owned or held shares in any of the mutual funds set forth on Schedule A hereto (the "MFS Funds"). Excluded from the Investor Class are: (i) any and all defendants in the Actions (the "Defendants"); (ii) the members of the immediate families (*i.e.*, parents, current or former spouses, siblings, and children), officers, directors, parents, subsidiaries,

affiliates, legal representatives, heirs, predecessors, successors and assigns of any of the foregoing excluded parties, and any entity in which any of the foregoing excluded parties has, or had during the Class Period, a controlling interest. Also excluded from the Investor Class are any Persons who timely and validly exclude themselves by filing a request for exclusion from the Investor Class or ERISA Class. No Person shall be excluded from the Investor Class solely by virtue of being the beneficial owner of any shares of any of the MFS Funds held by or credited to an account of any entity excluded above (*i.e.*, solely by virtue of having held their shares through a brokerage firm that is an excluded party). Members of the Investor Class are referred to herein as “Investor Class Members”.

5. The parties have stipulated and the Court hereby FINDS that the claims of putative Investor Class Members arising prior to July 31, 1999 have been extinguished by the applicable statutes of limitation.

6. The Court hereby preliminarily FINDS and CONCLUDES that the Investor Class set forth above satisfies all of the requirements for certification under Rule 23(a) and Rule 23(b)(3). The Court preliminarily determines that the requirements of Rule 23(a) – numerosity, commonality, typicality, and adequacy – are satisfied, and that the Investor Class also satisfies the requirements for certification under Rule 23(b)(3) as questions of law or fact common to the Investor Class predominate over individualized issues, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy. Accordingly, the Court conditionally CERTIFIES the Investor Class for purposes of these Settlements only, under Rules 23(a) and 23(b)(3).

7. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of the Settlements only, the Investor Class Lead Plaintiff, the City of Chicago Deferred Compensation Plan, is certified as Class Representative for the Investor Class



and Investor Class Lead Counsel, Bernstein Litowitz Berger & Grossmann LLP, is certified as Class Counsel for the Investor Class.

8. For settlement purposes only, ERISA Lead Plaintiff, the MFS Defendants, and the MFS Funds Defendants have also proposed conditional certification of the following ERISA Class under Fed. R. Civ. P. 23(a) and (b)(3):

the MFSavings Retirement Plan (the "MFS Plan") and all Persons who were participants in or beneficiaries of the MFS Plan during the Class Period and whose accounts included any investments in the MFS Funds set forth on Schedule A hereto. Excluded from the ERISA Class are: (i) any and all defendants in the Actions (the "Defendants"); (ii) the members of the immediate families (*i.e.*, parents, current or former spouses, siblings, and children), officers, directors, parents, subsidiaries, affiliates, legal representatives, heirs, predecessors, successors and assigns of any of the foregoing excluded parties, and any entity in which any of the foregoing excluded parties has, or had during the Class Period, a controlling interest. However, officers of MFS (other than portfolio managers) who are junior in seniority to executive vice presidents (*e.g.*, senior vice presidents or vice presidents) shall not be excluded from the ERISA Class. Also excluded from the ERISA Class are any Persons who timely and validly exclude themselves by filing a request for exclusion from the ERISA Class or Investor Class. In the event that the MFS Plan timely opts out of the proposed Settlement, all MFS Plan participants (in their capacities as such) will be deemed to have excluded themselves from the ERISA Class. No Person shall be excluded from the ERISA Class solely by virtue of being the beneficial owner of any shares of any of the MFS Funds held by or credited to an account of any entity excluded above (*e.g.*, solely by virtue of having held their shares through a brokerage firm that is an excluded party). Members of the ERISA Class are referred to herein as "ERISA Class Members".

9. The Court hereby preliminarily FINDS and CONCLUDES that the ERISA Class set forth above satisfies all of the requirements for certification under Rules 23(a) and 23(b)(3). The Court preliminarily determines that the requirements of Rule 23(a) –

numerosity, commonality, typicality, and adequacy – are satisfied, and that the ERISA Class also satisfies the requirements for certification under Rule 23(b)(3) as questions of law or fact common to the ERISA Class predominate over individualized issues, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy. Accordingly, the Court conditionally CERTIFIES the ERISA Class for purposes of these Settlements only, under Rules 23(a) and 23(b)(3).

10. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of the Settlements only, the ERISA Lead Plaintiff, Anita Walker, is certified as Class Representative for the ERISA Class and ERISA Lead Counsel, Harwood Feffer LLP, are certified as Class Counsel for the ERISA Class.

11. The Investor Class and the ERISA Class shall be known collectively as the “Classes.”

#### **PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENTS**

12. The proposed Stipulations and the Settlements they embody are hereby PRELIMINARILY APPROVED. Final approval of the Settlements is subject to the hearing of any objections of members of the Classes and current shareholders of the MFS Funds to the proposed Settlements embodied in the Stipulations.

#### **OTHER CASES ENJOINED**

13. Pending final approval of the Settlements, the Court hereby preliminarily enjoins each member of either of the Classes, including any putative Investor Class Member or ERISA Class Member who makes an irrevocable election to exclude himself, herself or itself from the Investor Class or ERISA Class, as applicable, from commencing, prosecuting or maintaining in any court other than this Court any claim, action or other proceeding that challenges or seeks review of or relief from any order,



judgment, act, decision or ruling of this Court in connection with the Settlements. Pending final approval of the Settlements, the Court further enjoins any member of either of the Classes – except for any putative member of the Investor Class or ERISA Class who, by the deadline for opting out, has made a timely, irrevocable election to exclude himself, herself or itself from the Investor Class or ERISA Class, as applicable – from commencing, prosecuting or maintaining, either directly, representatively or in any other capacity, any of the Released Claims against any of the released persons or parties, as defined in the respective Stipulations.

**APPROVAL OF THE FORM AND MANNER OF DISTRIBUTING NOTICE**

14. Plaintiffs, with the agreement of the Settling Defendants, have submitted for this Court's approval a proposed Notice, Long-Form Notice and Publication Notice (collectively, the "Settlement Notices") which the Court has reviewed. The Court finds and concludes that the form and content of the Settlement Notices, and the method set forth herein of notifying the Classes of the Settlements and their terms and conditions, meet the requirements of Rule 23 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7) as amended by the Private Securities Litigation Reform Act of 1995, due process, and any other applicable law, constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons and entities entitled thereto.

15. The Claims Administrator shall cause notice of the proposed Settlements, the hearing on the proposed Settlements, the request for approval of the Plan of Allocation and the applications of Plaintiffs' Counsel for awards of attorneys' fees and litigation expenses to be provided as follows:

(a) On or before June 30, 2010, a copy of the Notice, substantially in the form annexed hereto as Exhibit 1, shall be mailed to all Investor Class Members and ERISA Class Members at the address of each such person as set forth in the records maintained by the MFS Defendants or their transfer agents;

(b) On or before June 30, 2010, a copy of the Long-Form Notice and the Proof of Claim, substantially in the forms annexed hereto as Exhibits 2 and 3, respectively, shall be posted on the settlement website established for this Sub-Track, [www.mutualfundsettlements.com/mfs](http://www.mutualfundsettlements.com/mfs), and shall be made available for mailing to members of the Classes upon request; and

(c) On or before July 14, 2010, the Claims Administrator shall undertake a notice publication program, whereby (i) the Publication Notice, substantially in the form annexed hereto as Exhibit 4, shall be published once in the nationally circulated *People* magazine, once in *The Wall Street Journal*, once in *The New York Times*, and once over the *PR Newswire*; and (ii) notice of the Settlements shall be posted on various web-based media outlets, including, but not limited to, CNN.com, AOL.com, Hotmail.com, Facebook.com, Yahoo.com, The Wall Street Journal online, and through RSS Feed.

16. The form of the Settlement Notices fairly, plainly, accurately, and reasonably informs members of the Classes of: (1) appropriate information about the nature of the Actions, the Classes, the identity of Plaintiffs' Counsel, and the essential terms of the Settlements, including the Plan of Allocation; (2) appropriate information about the applications of Plaintiffs' Counsel for attorneys' fees and litigation expenses that will be deducted from the Settlement Funds in this Sub-Track; (3) appropriate

information about how to participate in the Settlements; (4) appropriate information about this Court's procedures for final approval of the Settlements, and about the rights of members of the Classes to appear through counsel if they desire; (5) appropriate information about how to object to the Settlements, or opt out of the Settlements; and (6) appropriate instructions about how to obtain additional information regarding the Settlements.

17. The Court FINDS and CONCLUDES that the proposed plan for notice of the Settlements will provide the best notice practicable to members of the Classes, satisfies the notice requirements of Rule 23, and satisfies all other legal and due process requirements.

18. The Court also FINDS and CONCLUDES that the proposed plan of notice provides reasonable and adequate notice to current shareholders of the MFS Funds of the Settlements of the Derivative Action and satisfies the notice requirements of Rule 23.1(c).

19. To effectuate the provision of notice provided for herein, and the calculation of distributions of the Net Settlement Funds to Authorized Claimants, and other actions required by this Order, the Court hereby approves the selection of The Garden City Group, Inc. to serve as the claims administrator for the Settlements (the "Claims Administrator").

20. To further effectuate the provision of notice provided for herein, the Claims Administrator shall establish a toll-free telephone number and lease and maintain a post office box of adequate size for the return of Requests for Exclusion. All Settlement Notices shall designate said post office box as the return address for the



purposes designated in the Settlement Notices. The Claims Administrator shall be responsible for the receipt of all responses to the Settlement Notices and, until further order of the Court, shall preserve all entries of appearance, Requests for Exclusion, and all other written communications from members of the Classes, nominees or any other person in response to the Settlement Notices.

21. On or before September 14, 2010, Plaintiffs' Counsel shall cause to be filed with the Clerk of this Court affidavits or declarations of the person or persons under whose general direction the mailing of the Notice to members of the Classes, the posting of the Long-Form Notice and the Proof of Claim to the settlement website, the mailing of the Long-Form Notice to members of the Classes and current shareholders of the MFS Funds who so request, the mailing of the Proof of Claim to Investor Class Members who so request, and the publication of the Publication Notice shall have been made, showing that such mailing, posting and publication have been made in accordance with this Order.

22. Plaintiffs' Counsel shall use reasonable efforts to give notice to nominee owners such as brokerage firms and other persons or entities who held shares of MFS Funds during the Class Period as record owners but not as beneficial owners. Such nominees who held such shares of MFS Funds for the benefit of members of either of the Classes are directed to send a copy of the Notice to the beneficial owner of the shares postmarked no more than fourteen (14) days from their receipt of the Notice, or to provide the names and addresses of such persons no later than fourteen (14) days from their receipt of the Notice to the Claims Administrator, c/o The Garden City Group, Inc., at the address specified in the Notice, who shall promptly send a copy of the Notice to such beneficial owners. Upon full compliance with this Order, such nominees may seek

reimbursement of their reasonable expenses actually incurred in complying with this Order by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought. Such properly documented expenses incurred by nominees in compliance with the terms of this Order shall be paid from the Settlement Funds (to the extent permitted by the Stipulations) or, to the extent provided in paragraph 30 of the MFS Defendants Stipulation, by MFS or its Insurers.

**PAYMENT OF SETTLEMENT FUNDS**

23. The passage of title and ownership of the Settlement Funds to the respective Escrow Agents in accordance with the terms and obligations of the Stipulations is approved. No person that is not a member of one of the Classes, the MFS Funds, or Plaintiffs' Counsel shall have any right to any portion of, or any rights in the distribution of, the Settlement Funds unless otherwise ordered by the Court or otherwise provided in the Stipulations.

24. All funds held in the escrow accounts shall be deemed and considered to be *in custodia legis* and shall remain subject to the jurisdiction of the Court until such time as such funds shall be distributed pursuant to the Stipulations and/or further order of the Court.

25. As provided in the Stipulations (and subject to any limitations contained therein), Plaintiffs' Counsel may pay the Claims Administrator the reasonable fees and costs associated with giving notice of the Settlements and the review of claims and administration of the Settlements out of the Settlement Fund without further order of the Court.

26. Plaintiffs' Counsel or their agents are authorized and directed to prepare any tax returns required to be filed for the Escrow Accounts and to cause any Taxes due

and owing to be paid from the Escrow Accounts without further Order of the Court, and to otherwise perform all obligations with respect to Taxes and any reportings or filings in respect thereof as contemplated by the Stipulations without further order of the Court.

**PROCEDURES FOR FINAL APPROVAL OF THE SETTLEMENTS**

27. **Final Settlement Hearing:** The Court hereby schedules a hearing (the “Final Settlement Hearing”) to be held before this Court on October 21-22, 2010, at 10:00 a.m., at the United States District Court for the District of Maryland, Baltimore Division, 101 W. Lombard Street, Baltimore, Maryland 21201, for the following purposes:

(a) to determine whether the Class Action and ERISA Action should be finally certified, for settlement purposes, as class actions under Rules 23(a) and (b) of the Federal Rules of Civil Procedure;

(b) to determine whether the proposed Settlements are fair, reasonable, and adequate, and should be approved by the Court;

(c) to determine whether the Orders and Final Judgments as provided under the Stipulations should be entered, providing for the dismissal of claims on the merits and with prejudice as provided in the Stipulations, and to determine whether the releases set forth in the Stipulations should be provided;

(d) to determine whether the proposed Plan of Allocation for the proceeds of the Settlements is fair and reasonable, and should be approved by the Court;

(e) to consider the applications of Plaintiffs’ Counsel for awards of attorneys’ fees and expenses; and

(f) to rule upon such other matters as the Court may deem appropriate.



The Court expressly reserves the right to adjourn or continue the Final Settlement Hearing without any further notice to shareholders of the MFS Funds or members of the Classes other than by an announcement of the adjournment at the scheduled time of the Final Settlement Hearing or at the scheduled time of any adjournment of the Final Settlement Hearing. The Court may consider modifications of any of the Settlements (with the consent of the relevant Settling Parties) without further notice to shareholders of the MFS Funds or members of the Classes.

28. None of the Defendants, nor any other released person or party as defined in the respective Stipulations, shall have any responsibility whatsoever for the Plan of Allocation nor for any application for attorneys' fees or expenses submitted by Plaintiffs' Counsel, and such matters will be considered separately from the fairness, reasonableness and adequacy of the Settlements.

29. **Right to Request Exclusion from the Investor Class or ERISA Class:** Investor Class Members and ERISA Class Members shall be bound by all determinations and judgments in the Actions, whether favorable or unfavorable, unless such persons request exclusion from the Investor Class or ERISA Class, as applicable, in a timely and proper manner, as hereinafter provided. With respect to ERISA Class Members: (a) if a Person excludes him, her or itself from the ERISA Class, such Person will also be excluded from the Investor Class; and (b) if a Person excludes him, her or itself from the Investor Class, such Person will be deemed to have excluded him, her or itself from the ERISA Class.

30. An Investor Class Member or ERISA Class Members wishing to be excluded from the Investor Class or ERISA Class, as applicable, shall mail the request in

written form by first-class mail to the addresses designated in the Long-Form Notice, such that it is received no later than September 21, 2010. Such request for exclusion shall clearly indicate the name, address and telephone number of the person seeking exclusion, that the sender requests to be excluded from the Investor Class or ERISA Class, as applicable, in the *In re MFS Mutual Funds Litigation*, and must be signed by such person. Such persons requesting exclusion are also directed to provide the number of shares in the MFS Funds that they held at the beginning of the Class Period, the end of the Class Period, and at the end of each calendar quarter during the Class Period. If a person requesting exclusion represents to the Claims Administrator (subject to verification) that this information is not available, such person may provide the number of shares that he, she or it held in the MFS Funds at the end of each year ended 1999-2003. The request for exclusion shall not be effective unless it provides the required information and is made within the time stated above, or the exclusion is otherwise accepted by the Court.

31. Any person or entity that requests to be and is excluded from the Investor Class or ERISA Class shall not be entitled to receive any payment out of the Net Settlement Funds as described in the Stipulations and the Settlement Notices.

32. **Deadline for Filing Objections to the Settlements.** Any member of the Classes or current shareholder of the MFS Funds may appear at the Final Settlement Hearing to show cause why the proposed Settlements should or should not be approved as fair, reasonable and adequate; why a judgment should or should not be entered thereon; why the Plan of Allocation should or should not be approved as fair and reasonable; or why Plaintiffs' Counsel should or should not be awarded attorneys' fees and payment of expenses in the amounts sought by Plaintiffs' Counsel; *provided*,

*however*, that no Person shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlements, the Orders and Final Judgments to be entered approving the same, the proposed Plan of Allocation or the applications of Plaintiffs' Counsel for awards of attorneys' fees and expenses, unless no later than September 21, 2010 (the "Objection Deadline"), such Person has properly and timely served by hand or by first-class mail on the counsel set forth below written objections and copies of any supporting papers and briefs:

Investor Class Lead Counsel:  
Chad Johnson, Esq.  
William C. Fredericks, Esq.  
Jerald Bien-Willner, Esq.  
**Bernstein Litowitz Berger &  
Grossmann LLP**  
1285 Avenue of the Americas  
New York, NY 10019

and has filed by the Objection Deadline said objections, papers and briefs, showing due proof of such service upon all counsel identified above, via ECF or with the Clerk of the United States District Court for the District of Maryland, Baltimore Division, 101 W. Lombard Street, Baltimore, Maryland 21201. Objections by members of the Classes must include information or documents concerning his, her or its holdings of shares in the MFS Funds during the Class Period or a statement attesting to the fact that such Person purchased, owned or held shares in one or more of the MFS Funds during the Class Period. Objections to the Settlements of the Derivative Action must include information concerning the objector's current ownership of shares in one or more of the MFS Funds. Class Members or current shareholders who have not retained an attorney to represent them in connection with these Settlement proceedings may mail their objections to the Clerk of the Court, with a copy mailed to Investor Class Lead Counsel, at the



addresses listed above. Any objections received by the Court by mail will be filed and served by the Court via ECF. Investor Class Lead Counsel shall promptly forward any objections that it receives to ERISA Lead Counsel, Derivative Lead Counsel and Counsel for each of the Settling Defendants.

33. Attendance at the hearing is not necessary; however, persons wishing to be heard orally in opposition to the approval of any of the Settlements, the Plan of Allocation, and/or the requests for attorneys' fees and expenses are required to indicate in their written objection their intention to appear at the hearing. Persons who intend to object to the Settlements, the Plan of Allocation, and/or the applications of Plaintiffs' Counsel for awards of attorneys' fees and expenses and desire to present evidence at the Final Settlement Hearing must include in their written objections the identity of any witnesses they may call to testify and any exhibits they intend to introduce into evidence at the Final Settlement Hearing. Members of the Classes and shareholders do not need to appear at the hearing or take any other action to indicate their approval. Members of the Classes may retain an attorney at their own expense to appear at the Final Settlement Hearing, but there is no need for members of the Classes to retain an attorney and members of the Classes can appear at the hearing without hiring an attorney.

34. Any member of the Classes or current shareholder of the MFS Funds who does not object in the manner prescribed above shall be deemed to have waived such objection and shall be forever foreclosed from making any objection to the fairness, adequacy or reasonableness of the proposed Settlements as well as the Orders and Final Judgments to be entered approving the Settlements, the Order to be entered approving the Plan of Allocation or the applications of Plaintiffs' Counsel for awards of attorneys' fees

and expenses, or from otherwise being heard concerning these subjects in this or any other proceeding, except for good cause shown. Objections raised at the Final Settlement Hearing will be limited to those previously submitted in writing.

35. **Deadline for Submitting Motion Seeking Final Approval.** Plaintiffs shall submit their papers in support of final approval of the Settlements and the Plan of Allocation no later than September 14, 2010.

36. **Deadline for Petition for Attorneys' Fees.** Plaintiffs' Counsel shall file with this Court their applications for awards of attorneys' fees and litigation expenses no later than September 14, 2010.

37. **Deadline for Reply Papers to Any Timely-Filed Objections.** All reply papers to any timely-filed objections shall be filed no later than October 6, 2010.

**PROOFS OF CLAIM; CLAIMS ADMINISTRATION**

38. In order to be entitled to participate in the Net Settlement Funds, in the event the Settlements are effected in accordance with the terms and conditions set forth in the Stipulations, each Investor Class Member must take the following actions and shall be subject to the following conditions:

(a) A properly executed Proof of Claim, substantially in the form attached hereto as Exhibit 3, must be submitted to the Claims Administrator, at the Post Office Box indicated in the Settlement Notices, postmarked no later than December 8, 2010. Such deadline may be further extended by Court Order. Each Proof of Claim shall be deemed to have been submitted when mailed (if properly addressed and mailed by first-class or overnight U.S. Mail, postage prepaid) provided such Proof of Claim is actually received prior to the motion for an Order of the Court approving distribution of

the Net Settlement Funds. Any Proof of Claim submitted in any other manner shall be deemed to have been submitted when it was actually received at the address designated in the Settlement Notices.

(b) The Proof of Claim submitted by each Investor Class Member must satisfy the following conditions: (i) it must be properly completed, signed and submitted by the time set forth in the preceding subparagraph; (ii) it must be accompanied by adequate supporting documentation for the holdings reported therein, in the form of mutual fund statements, broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by the Claims Administrator, subject to the supervision of Investor Class Lead Counsel; (iii) if the person executing the Proof of Claim is acting in a representative capacity, a certification of his or her current authority to act on behalf of the Investor Class Member must be included in the Proof of Claim; and (iv) the Proof of Claim must be complete and contain no material deletions or modifications of any of the printed matter contained therein, and must be signed under penalty of perjury.

(c) As part of the Proof of Claim, Investor Class Members shall submit to the jurisdiction of the Court with respect to the claim submitted, and shall (subject to effectuation of the Settlements) release all Released Claims against any of the released persons or parties, as defined in the respective Stipulations.

39. The MFS Plan must submit a Proof of Claim on behalf of all ERISA Class Members as set forth in paragraph 38 above. ERISA Class Members do not need to submit a Proof of Claim with respect to any MFS Funds that they owned through the



MFS Plan. To the extent that any ERISA Class Members also owned shares of MFS Funds directly (*i.e.*, *not* through the MFS Plan), they must follow the claims process required for Investor Class Members described in paragraph 38 above and paragraph 41 below in order to be eligible for payment with respect to those shares.

40. The Claims Administrator shall administer the process of receiving, reviewing and approving or denying Proofs of Claim under Investor Class Lead Counsel's supervision and subject to the jurisdiction of the Court. The administration of the proposed Settlements and the determination of all disputed questions of law and fact with respect to the validity of any Proof of Claim or right of any person or entity to participate in the distribution of any of the Net Settlement Funds shall be under the authority of this Court.

41. For purposes of determining the extent, if any, to which an Investor Class Member and the MFS Plan shall be entitled to be treated as an "Authorized Claimant," the following conditions shall apply:

(a) Each Investor Class Member and the MFS Plan must submit a Proof of Claim, supported by such documents as are designated therein, including proof of the transactions or balances, as the case may be, claimed and the losses incurred thereon, or such other documents or proof as the Claims Administrator, in its discretion, may deem acceptable;

(b) All Proofs of Claim must be submitted by the date set forth in paragraph 38(a) above and specified in the Notice, unless such period is extended by Order of the Court. If an Investor Class Member or the MFS Plan fails to submit a Proof of Claim by such date, he, she or its shall be forever barred from receiving any payment

from the Net Settlement Funds (unless, by Order of the Court, late-filed Proofs of Claim are accepted), but he, she or it shall in all other respects be bound by all of the terms of the Stipulations and the Settlements, including the terms of the Judgments to be entered in the Actions, and the releases provided for therein, and will be barred from bringing any action asserting any of the Released Claims against any of the released persons or parties, as defined in the respective Stipulations;

(c) Each timely filed Proof of Claim shall be submitted to and reviewed by the Claims Administrator, under the supervision of Investor Class Lead Counsel;

(d) The Claims Administrator shall determine in accordance with the Stipulations and the approved Plan of Allocation the extent, if any, to which each timely filed Proof of Claim shall be allowed, subject to review by the Court pursuant to subparagraph (f) below;

(e) Proofs of Claim that do not meet the submission requirements may be rejected. Prior to rejection of a timely filed Proof of Claim, the Claims Administrator shall communicate with the claimant in writing to give the claimant the chance to remedy the curable deficiencies in such timely submitted Proof of Claim. The Claims Administrator shall notify, in a timely fashion and in writing, all claimants whose timely submitted Proofs of Claim they propose to reject in whole or in part, setting forth the reasons therefor and shall indicate in such notice that the claimant whose Proof of Claim is to be rejected has the right to a review by the Court if the claimant so desires and complies with the requirements of subparagraph (f) below;

(f) If any claimant whose Proof of Claim has been rejected in whole or in part desires to contest such rejection, the claimant must, within twenty (20) days after the date of mailing of the notice required in subparagraph (e) above, serve upon the Claims Administrator a notice and statement of reasons indicating the claimant's grounds for contesting the rejection, along with any supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a Proof of Claim cannot be otherwise resolved, Investor Class Lead Counsel shall thereafter present the request for review to the Court; and

(g) The administrative determinations of the Claims Administrator accepting and rejecting Proofs of Claim shall be presented to the Court, on notice to Counsel for the Settling Defendants, for approval by the Court.

42. Each claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to the claimant's Proof of Claim, and the Proof of Claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to that claimant's status as an Investor Class Member and the validity and amount of the claimant's Proof of Claim. No discovery shall be allowed on the merits of the Actions or the Settlements in connection with processing of the Proofs of Claim.

43. All persons and entities whose Proofs of Claim are not approved by the Court shall be barred from participating in distributions from the Net Settlement Funds, but otherwise shall be bound by all of the terms of this Stipulations and the Settlements to the extent applicable, including the terms of the Judgments to be entered in the Actions and the releases provided for therein, and will be barred from bringing any action



asserting any of the Released Claims against any of the released persons or parties, as defined in the respective Stipulations.

44. The entirety of the Net Settlement Funds shall be distributed to Authorized Claimants by the Claims Administrator only after the Effective Date of each of the Settlements has occurred, and after: (i) all timely submitted Proofs of Claim have been processed, and all claimants whose timely submitted Proofs of Claim have been rejected or disallowed, in whole or in part, have been notified and provided the opportunity to be heard concerning such rejection or disallowance; (ii) all objections with respect to all rejected or disallowed timely submitted Proofs of Claim have been resolved by the Court, and all appeals therefrom have been resolved or the time therefor has expired; (iii) all matters with respect to attorneys' fees, costs, and disbursements have been resolved by the Court, all appeals therefrom have been resolved or the time therefor has expired; and (iv) all costs of administration have been paid.

**EFFECT OF TERMINATION OF SETTLEMENT**

45. In the event any of the Settlements is properly terminated in accordance with the terms of the relevant Stipulation, that Stipulation, including any amendment(s) thereof, shall be null and void, of no further force or effect, and without prejudice to any party, and may not be introduced as evidence or referred to in any actions or proceedings by any person or entity, and each party shall be restored to his, her or its respective position as provided in that Stipulation and the parties shall proceed as if they had not entered into that Stipulation.

46. The Court retains exclusive jurisdiction over the Actions to consider all further matters arising out of or connected with the Settlements.

**SO ORDERED:**

Dated: Baltimore, Maryland

*May 14* 15, 2010

  
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J. FREDERICK MOTZ  
United States District Judge

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